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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Human rights and terrorism

Report of the Secretary-General

I. INTRODUCTION

1. The present report is submitted in pursuance of General Assembly resolution 49/185 of 23 December 1994 entitled "Human rights and terrorism", which reads as follows:

"The General Assembly,

"...

"1. Reiterates its unequivocal condemnation of all acts, methods and practices of terrorism, as activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening the territorial integrity and security of States, destabilizing legitimately constituted Governments, undermining pluralistic civil society and having adverse consequences on the economic and social development of States;

"2. Expresses its solidarity with the victims of terrorism;

"3. Calls upon States to take all necessary and effective measures in accordance with international standards of human rights, to prevent, combat and eliminate all acts of terrorism wherever and by whomever committed, and urges the international community to enhance cooperation in the fight against the threat of terrorism at national, regional and international levels;

"4. Requests the Secretary-General to seek the views of Member States on the possible establishment of a United Nations voluntary fund for victims of terrorism and to submit to the General Assembly at its fiftieth session, for its consideration, a report containing comments made by Member States on the subject;

"5. Also requests the Secretary-General to transmit the text of the present resolution to all Member States and to competent specialized agencies and intergovernmental organizations for their consideration;

"6. Encourages special rapporteurs, special representatives and working groups of the Commission on Human Rights, as well as treaty bodies, to pay appropriate attention, within their mandates, to the consequences of the acts, methods and practices of terrorist groups;

"7. Decides to consider this question at its fiftieth session under the item entitled 'Human rights questions'."

2. In accordance with the requests formulated in paragraph 5 of the above resolution and in paragraph 4 of Commission on Human Rights resolution 1995/43, also entitled "Human rights and terrorism", the Secretary-General, by a note verbale dated 3 May 1995, drew the attention of Member States to the two resolutions.

3. Since Member States did not respond to paragraph 4 of General Assembly resolution 49/185 by expressing their views on the possible establishment of a United Nations voluntary fund for victims of terrorism, the Secretary-General sent an additional note verbale on 6 September 1995 in which he specifically requested that Governments communicate their views with respect to paragraph 4 of General Assembly resolution 49/185 no later than 10 October 1995.

4. At the time of the preparation of the present report, replies had been received from the Governments of Ethiopia, France, Greece, Iraq, Japan, Lebanon, Sweden and the Syrian Arab Republic. These are reproduced below.

II. REPLIES FROM GOVERNMENTS

Ethiopia

[Original: English]

The Ethiopian Government in principle supports the establishment of a United Nations voluntary fund for victims of terrorism as envisaged in General Assembly resolution 49/185 of 23 December 1994.

France

[Original: French]

On a national basis, France already has a guarantee fund for victims of terrorism financed by the levying of percentages of insurance contracts.

It considers that the establishment of machinery of this type at the international level would raise questions, notably of a practical and legal nature, which might make it difficult to put this initiative into effect.

Moreover, France is in general opposed to the establishment of new voluntary funds within the United Nations system.

Greece

[Original: English]

The Greek Government is of the opinion that the establishment of a United Nations voluntary fund for victims of terrorism would be a positive step.

Iraq

[Original: Arabic]

Iraq attaches importance to the struggle against terrorism. This is in keeping with the principles governing our policy, as well as our desire to preserve international stability and security. It is also clearly reflected in Iraq's constitutional provisions and national criminal legislation and in the statements of Iraqi officials and, primarily, of the President of the Republic who has emphasized on more than one occasion that, officially and in actual practice, we are opposed to terrorism and terrorist behaviour since, as a matter of policy, we do not regard them as the proper way to deal with problems encountered in daily life.

With regard to national criminal legislation, the Iraqi Penal Code does not classify acts of terrorism as political offences; on the contrary, it regards them as ordinary offences even if they are politically motivated. In fact, the Penal Code prescribes penalties for numerous offences that are regarded as acts of terrorism, including offences prejudicial to State security, offences committed against the public authorities and offences that constitute a public danger, such as acts of arson, the detonation of explosive devices, attacks on transport, communication and telecommunication facilities and acts detrimental to the progress of work.

Iraqi legislation also deals with the potential motives of terrorism and ways to protect citizens from engagement in practices that might be regarded as terrorism. This is exemplified by many of the decrees and measures adopted in recent years on the basis of the provisions of the Iraqi Constitution, particularly those guaranteeing the basic rights of citizens without any

distinction on grounds of sex, race or religion and safeguarding the rights of ethnic minorities and freedom of religion and belief. There are also other texts and measures that seek to contribute to the struggle against terrorism in accordance with the recommendations and resolutions of the United Nations and the principles of international law.

At the international level, Iraq has diligently participated in the endeavours made to combat terrorism. At the 1972 session of the General Assembly, Iraq emphasized the need for the international community to agree on a clear definition of terrorism and its scope. Iraq focused on the importance of identifying the underlying causes of the alarming increase in international terrorism before discussing the measures needed to combat it. Iraq criticized the major Powers for obstructing the endeavours made to find solutions to many of the complex problems in some parts of the world which might be among the causes of the alarming increase in acts of terrorism.

Iraq also stressed that the principles and aims of peoples struggling for self-determination or national liberation should in no way be affected by the discussion of measures to be taken to combat terrorism. Iraq has already emphasized the need to discuss the problem carefully, through an in-depth study of all its aspects and manifestations, in order to devise internationally acceptable solutions after taking into consideration the comments submitted by the Governments of Member States.

It is noteworthy that the Iraqi Government has ratified many of the conventions adopted by the General Assembly or its organs to deal with various aspects of the problem of international terrorism. These conventions include:

1. The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, which was adopted by the General Assembly in 1973.

2. The Convention on Offences and Certain Other Acts Committed On Board Aircraft, which was signed at Tokyo in 1963.

3. The Convention for the Suppression of Unlawful Seizure of Aircraft, which was signed at The Hague in 1970.

4. The Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, which was signed at Montreal in 1971.

In this connection, reference should also be made to the fact that the comments of the Government of the Republic of Iraq on measures to combat international terrorism have already been incorporated in document A/48/267.

Japan

[Original: English]

The Government of Japan would like to comment on the possible establishment of a United Nations voluntary fund for victims of terrorism as follows:

The Government of Japan joined the consensus on Commission on Human Rights resolution 1995/43 entitled "Human rights and terrorism" from the view that no form of terrorism should be permitted.

However, concerning the possible establishment of a United Nations voluntary fund for victims of terrorism, Japan is of the view that it is very difficult to set up administrative regulations of the fund as well as to define its scope, and that the fund is regarded largely as a means for compensation of damages.

From the above standpoints, the fund does not seem to fully comply with the requirements of a fund established for the protection and promotion of human rights. Therefore, the Government of Japan is not able to support the establishment of a United Nations voluntary fund for victims of terrorism.

Lebanon

[Original: French]

The Government of Lebanon supports the initiative to establish a United Nations voluntary fund for victims of terrorism, although it is unable to financially contribute to it in view of the current economic situation in the country.

The Lebanese Government takes this occasion to specify that a distinction ought to be made between terrorism and the right to legitimate resistance to Israeli occupation in southern Lebanon.

Sweden

[Original: English]

Sweden strongly supports the fight against terrorism and the enhancement of international cooperation against terrorism. Sweden would, however, like to express its view that a terrorist act is a crime under the national criminal law of each country, and not a human rights violation. An exception is, of course, when terrorist acts are commissioned or condoned by the State.

Furthermore, Sweden believes that countries that are frequently subject to terrorist acts would be more efficiently supported by means of normal bilateral and multilateral cooperation than by creating a fund within the United Nations system.

Syrian Arab Republic

[Original: Arabic]

The Syrian Arab Republic is not opposed to the idea of establishing a United Nations voluntary fund for victims of terrorism. However, it wishes to emphasize the importance of distinguishing between terrorism and the struggle of peoples subjected to foreign occupation or domination and urges the international community to continue to support the struggle of those peoples, who are victims of terrorism, and to ensure their full and effective enjoyment of their human rights and fundamental freedoms.